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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,977	04/25/2005	Brian Maurice Parker	5161-045200	1143
28389 7590 01/29/2009 THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219				
EXAMINER				
LE, MARK T				
ART UNIT		PAPER NUMBER		
3617				
MAIL DATE		DELIVERY MODE		
01/29/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/508,977

**Applicant(s)**

PARKER ET AL.

**Examiner**

MARK T. LE

**Art Unit**

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/24/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. It is noted that there are various means, such as drive coupling means, means of biasing, biasing means, means for biasing, and drive means, recited throughout the instant claims. These means are not considered to invoke 35 USC 112, sixth paragraph, because all of the requirements are not met. Specifically, the instant claimed drive coupling means is not modified by a functional language; and the instant claimed means of biasing, biasing means, means for biasing, and drive means are modified with sufficient structures for achieving the specified functions; therefore, it is presumed that means-plus-function limitations are not intended. Note for example, even though in independent claim 29, the drive means has not been modified by sufficient structures for achieving the specified functions, the same drive means are modified with the sufficient structures recited in dependent claim 39; therefore, the claimed drive means cannot be considered to invoke 35 U.S.C.112, sixth paragraph in either independent claim 29 or dependent 39 because if it were to be invoked in only independent claim 29, independent claim 29 would be inappropriately more specific than dependent claim 39.

If an applicant wishes to have the claim limitations treated under 35 U.S.C. 112, sixth paragraph, applicant should clearly indicate his intention and amend the wordings in the claims so as to meet all requirements as set forth in MPEP section 2181.

2. Claims 18-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 18 and 29, in the amended wordings, the expression "each rotatably mounted about respective horizontal axes" does not make sense because each of the wheel is not mounted to rotate about more than one horizontal axis.

In claims 32 and 35, line 2, "said load bearing tracks" lacks antecedent basis.

3. Claims 18-19, 24-25, 27-39, 43-44 and 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker (US 6,112,917) in view of Sattel (US 4,559,027).

Baker discloses a drive mechanism having features similar to that recited in the instant claims, including actuator 21, drive coupling means 20, load bearing wheels 22, non-load bearing drive wheel 64, load bearing track 14, and a stationary surface located inside track 54 for engagement with drive wheel 64. It is noted drive wheel 64 and actuator 21 of Baker are not located on the same side of load bearing track 14 as claimed.

Sattel discloses a drive mechanism having actuator 30 and drive wheel 20 located on the same side of load bearing track 17. In view of Sattel, it would have been obvious to one skilled in the art to locate the actuator and drive wheel of Baker on the same side of the load bearing track, in a manner similar to that taught by Sattel, so as to achieve expected advantages thereof.

Regarding the instant claimed frictional engagement between the drive wheel and the surface, as recited in instant claim 19, note that the engagement between the drive wheel and the surface of Baker obvious includes frictional engagement.

Regarding the instant claimed crank comprises a wheel, as recited in instant claim 28, note that actuator 21 of Baker includes a central wheel, which has handle bars projecting therefrom.

Regarding the instant claimed elongated track being attached to a load bearing track, as recited in instant claim 32, consider Figure 2 of Baker; wherein, elongated track 54 is attached to load bearing track 14.

Regarding the instant claimed means of biasing the drive wheel towards the surface, as recited in instant claims 22 and 38, note that the drive wheel of baker is being biased toward the track surface at least by means of the weight the cabinets.

Regarding the instant claimed drive coupling means comprising a belt, as recited in instant claims 25 and 44, note that drive chain 71 in the structure of Baker is readable as a metal drive belt.

Regarding the instant claimed reduction gearing, as recited in instant claims 24 and 43, note that sprocket 70 of Baker is readable as reduction gearing as broadly claimed.

4. Claims 20-23 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 18 and 39 above, and further in view of either Grop (US 4,023,503) or British reference 2,122,960.

Regarding the drive wheel being a friction wheel biased by a spring toward engagement with the track, as recited in instant claims 20-23 and 40-42, note that friction drives are a well known alternative to sprocket drives. Note for example, the friction drive of Grop that includes friction wheel 40 biased toward engagement with the

track by spring 43, or the friction drive of the British reference that includes friction wheel 7 biased toward engagement with the track by spring 12. Therefore, it would have been obvious to one skilled in the art to alternatively substitute a friction drive wheel biased into a drive engagement with the track by a spring, in a manner similar to that taught by either Grop or the British reference, for the sprocket drive wheel of Baker so as to achieve expected advantages of friction drives, such as quieter operations.

Regarding the instant claimed friction material of the drive wheel comprising polyurethane, as recited in instant claims 21 and 41, note that Grop, lines 45-50, column 2, suggests the use of rubber or the like. Since the known polyurethane has the characteristics of rubber or similar to rubber, such as polyurethane rubber, it would have been obvious to one skilled in the art to use a material comprising known polyurethane so as to achieve the expected advantages thereof, such as high friction and durability.

5. Claims 25-26 and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 18 and 39 above, and further in view of Quinn (US 4,417,524).

Regarding the instant claimed plurality of drive belts, i.e. first and second belts, and pulleys, as recited in instant claims, note that that the concept of using multiple drive belts and pulleys for transmitting driving power is well known. Note for example in Figure 3 of Quinn; wherein, two drive belts along with a plurality of associated pulleys are used. Therefore, it would have been obvious to one skilled in the art to selectively use a plurality of drive belts and pulleys in the structure of Baker as to

provide more flexibility in the arrangement of transmitting driving power to the drive wheel.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK T. LE whose telephone number is (571)272-6682. The examiner can normally be reached on Mon-Fri, between 8:15-4:45 (Teleworking).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Le/  
Primary Examiner  
Art Unit 3617

mle  
1/27/09